



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 21 2018

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

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EMERGENCY MANAGEMENT

Mr. Corey Webb
Deputy Assistant Commissioner
Indiana Department of Environmental Management
Office of Land Quality
100 North Senate Avenue, IGCN, Room 1154
Indianapolis, Indiana 46204

Re: Responses to Questions Regarding the Federal Coal Combustion Residuals (CCR)
Regulations

Dear Mr. Webb:

Please find enclosed responses to questions regarding the final rule titled "Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals," 80 FR 21302 (April 17, 2015). These federal regulations are codified in 40 CFR part 257, subpart D. Your staff posed six questions to us regarding the implementation of the CCR rule and this letter provides our response to questions 1 through 3.

We continue to work through the remainder of the questions and will share the answers to those as soon as we are able. In the interim, if you have questions regarding this letter, please contact me at (703) 308-8895 or your staff can contact Mary Jackson at (703) 308-8453.

Sincerely,

A handwritten signature in black ink, which appears to read "Barnes Johnson", is positioned above the typed name and title.

Barnes Johnson, Director
Office of Resource Conservation
and Recovery

Enclosure

cc: Ms. Rebecca Eifert Joniskan, Indiana Department of Environmental Management

**EPA Response to Questions 1-3 on the CCR Regulations from the
Indiana Department of Environmental Management**

Q1a: Can an owner/operator construct a new non-CCR surface impoundment in the location of a CCR surface impoundment that is in the process of being closed by removal – after all CCRs and areas that may have been contaminated by CCRs have been removed, however ground water monitoring concentrations exceed the GWPS?

A (1a): Assuming all areas that have been affected by releases of CCRs have been removed and decontaminated, the CCR rule does not prohibit the construction of a non-CCR surface impoundment in the location, while closure by removal is progressing. However, as part of the process of conducting the closure by removal the facility must still comply with the requirement to meet the ground water protection standards within the timeframes prescribed in §257.102(f). Consequently, the owner/operator must ensure that construction of the new non-CCR unit does not impact the ability to meet the closure requirements for the CCR surface impoundment.

Q1b: Would this action be considered a retrofit under §257.102(k)?

A (1b): Because they do not intend to construct or operate a CCR unit, this action would not be considered a retrofit under §257.102(k). If the unit is retrofitted, per the requirements under §257.102(k), the new unit would need to be designed as a new CCR surface impoundment and all aspects of the rule would apply to the new unit, including the full post closure care period.

Q2: Can closure by removal of CCRs for an existing surface impoundment be certified, as required by § 257.102(f)(3), without confirmation that the ground water monitoring concentrations do not exceed the groundwater protection standard for constituents in Appendix IV?

*A: No, the performance standard for closure by removal requires that groundwater monitoring indicates that the concentrations of constituents do not exceed the groundwater protection standard for constituents listed in Appendix IV. According to § 257.102(f)(2), the maximum time an owner/operator has to complete closure and meet the ground water protection standard is 7 years for surface impoundments 40 acres or smaller and 15 years for surface impoundments larger than 40 acres. Closure is not considered complete until all CCR in the unit and any areas affected by releases from the CCR unit have been removed **and** groundwater monitoring demonstrates that all concentrations of the assessment monitoring constituents listed in appendix IV to part 257 do not exceed the groundwater protection standards. §257.102(c); 80 FR 21412, April 17, 2015.*

Q3: In clean closing, does the owner/operator (O/O) have to certify that any soil affected by releases from the CCR unit have been removed?

A: Yes. The regulation specifies that "An owner or operator may elect to close a CCR unit by removing and decontaminating all areas affected by releases from the CCR unit." §257.102(c). As part of attaining the performance standard for clean closure, the O/O will need to document that CCR has been removed and that decontamination is complete § 257.102(f)(3). The regulation also specifies that decontamination is complete when constituent concentrations throughout the CCR unit and any areas affected by releases from the CCR unit have been removed and groundwater monitoring concentrations do not exceed the groundwater protection standards. § 257.102(c). While part 257 does not require any particular documentation of soil testing, the state can require soil testing as part of the required documentation. Upon completion of closure activities, the O/O of the CCR unit must obtain a certification from a qualified PE verifying that closure has been completed in accordance with the closure plan and the requirements of §257.102.